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7

8 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA  
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.  
13

14 JEFFREY A. MARTINEZ, individually,  
and as Trustee of the Martinez Family Trust;  
DOLORES M. MARTINEZ, individually and  
15 as Trustee for the Martinez Family Trust;  
THE MARTINEZ FAMILY TRUST;  
16 MARTINEZ & ASSOCIATES, INC.  
(NV20041370692); MARTINEZ &  
17 ASSOCIATES INC. (NV20181033912);  
SIERRA MORTGAGE CORPORATION;  
18 FIDELITY NATIONAL TITLE; CHASE  
MORTGAGE COMPANY; JP MORGAN  
19 CHASE BANK NATIONAL  
ASSOCIATION; RHODES RANCH  
20 ASSOCIATION; and REPUBLIC SILVER  
STATE INC., DBA, REPUBLIC SERVICES,  
21

22 Defendants.  
23  
24  
25

Case No.: 2:19-cv-1986-GMN-DJA

**JOINT MOTION TO APPROVE  
STIPULATION AND ENTER  
JUDGMENT SUBJECT TO  
SETTLEMENT AGREEMENT**

1 Plaintiff, the United States of America, and defendants Jeffrey and Dolores Martinez, *pro*  
 2 *se*, (together, the “moving parties”), and the Martinezes’ non-appearing corporate entities,  
 3 Martinez & Associates, Inc. (Nevada Business ID NV20041370692) (“Martinez & Associates  
 4 I”) and Martinez & Associates, Inc. (Nevada Business ID NV20181033912) (“Martinez &  
 5 Associates II”) have reached a settlement. In light of the agreement, the moving parties hereby  
 6 move the Court to approve the stipulation attached as Exhibit 1, and enter the proposed judgment  
 7 as to certain claims attached as Exhibit 2, pursuant to Fed. R. Civ. P. 54(b).

## 8 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 9 **BACKGROUND**

10 The United States sought a judgment against the Martinezes, and against two  
 11 corporations associated with them (Martinez & Associates I and Martinez & Associates II), for  
 12 various federal tax liabilities. The United States also sought to foreclose its tax liens against  
 13 certain real property (the “Subject Property”) to help satisfy the judgments. The Subject  
 14 Property is located at 262 Cliff Valley Drive, Las Vegas, Nevada 89148, and is described in  
 15 further detail in the Complaint. It was putatively held in a trust, *i.e.*, the Martinez Family Trust  
 16 (the “Trust”), which the United States named as a defendant.

17 The United States also named as defendants other entities that might assert a lien or other  
 18 claim against the Subject Property, pursuant to 26 U.S.C. § 7403(b) (“Action to enforce lien or to  
 19 subject property to payment of tax”). That way, those parties’ claims to the property (if any)  
 20 could be adjudicated if and when the Court determined that the property should be foreclosed. It  
 21 is common in such cases for the United States to reach stipulations with other claimants as to lien  
 22 priority, to the extent they do not disclaim any interest.

23 To date only one of these potential claimants, the Rhodes Ranch Association, has  
 24 answered the complaint (ECF No. 4). Another, Fidelity National Title, has disclaimed any  
 25 interest. (*See* ECF No. 7). Defendants JP Morgan Chase Bank National Association and Chase

1 Bank National Association (together, the “Chase defendants”), and the United States have  
2 reached a stipulation concerning lien priority as between them. (*See* ECF No. 20 (Order  
3 approving stipulation)). (The Chase defendants claim the mortgage loan that was initially issued  
4 by defendant Sierra Mortgage Corporation). Defendant Republic Silver State Inc. has been  
5 served but has not yet appeared, and has not contacted the United States. Finally, the United  
6 States filed a notice of dismissal concerning defendants Nevada Mortgage Assistance Company  
7 and the Cooper Castle Law firm. (ECF No. 21).

8 In any event, there is no need to pay out claims to any of the named defendants at present.  
9 Under the settlement agreement, the United States has agreed not to foreclose on the Subject  
10 Property at this time, if the Martinezes make certain payments and comply with other terms in  
11 the agreement. There would thus be no sales proceeds to distribute to any of the other named  
12 defendants, assuming the settlement terms are obeyed.

13 **THE SETTLEMENT AGREEMENT,**  
14 **STIPULATION, AND PROPOSED JUDGMENT**

15 Under the settlement agreement, the Martinezes and their businesses have consented to  
16 money judgments for various tax liabilities, and have agreed to make certain payments to the  
17 United States and to adhere to certain other terms. In connection with this agreement, the United  
18 States, Mr. and Ms. Martinez, and Martinez & Associates I and Martinez & Associates II have  
19 entered into the stipulation attached at Exhibit 1. The stipulation itemizes the tax liabilities at  
20 issue, and memorializes that the Martinezes and their businesses have consented to the proposed  
21 judgment attached as Exhibit 2.

22 The proposed judgment does not dispose of the Ninth Claim for Relief in the Complaint,  
23 which seeks to foreclose on the property. The United States has agreed not to seek to foreclose  
24 or otherwise collect against the Subject Property, if the Martinezes comply with the settlement  
25 agreement, and has agreed to dismiss the foreclosure claim, without prejudice. However, the

1 settlement agreement does not require the Martinezes to make an initial payment until mid-  
2 February, 2021. Because of this time lag, the Martinezes and United States move for the Court  
3 to award judgment only in part now, with the United States to take appropriate action to dismiss  
4 the foreclosure claim once the Martinezes make the initial payment, assuming they are  
5 complying with the other terms of the agreement. The United States would simultaneously seek  
6 to dismiss the other named defendants at that time.

7 Fed. R. Civ. P. 54(b) provides that “[w]hen an action presents more than one claim for  
8 relief ... or when multiple parties are involved, the court may direct entry of a final judgment as  
9 to one or more, but fewer than all, claims or parties only if the court expressly determines that  
10 there is no just reason for delay.” There is no just reason for delay here. The Martinezes and the  
11 United States have worked to resolve the matter without extensive litigation, saving costs for all  
12 parties, including the other named defendants, and minimizing the use of judicial resources.  
13 Entering the agreed upon partial judgment allows the Martinezes to address their tax obligations  
14 while remaining in their home, while reducing risk to the United States and uncertainty for the  
15 Martinezes. The brief anticipated delay before dismissing the remaining foreclosure claim has  
16 minimal effect on the remaining parties, and in fact serves the interests of judicial economy to  
17 the extent the Martinezes are unwilling or unable to comply with the settlement in the near term  
18 (in which case the United States would proceed on the foreclosure count).

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1 WHEREFORE, the United States, Jeffrey Martinez, and Dolores Martinez jointly request  
2 that the Court approve the stipulation attached at Exhibit 1, and, relatedly, determine that there is  
3 no just cause reason for delay and enter the proposed partial judgment at Exhibit 2.

4  
5 Signed this \_\_\_\_ day of \_\_\_\_, 2021.

Signed this 2<sup>ND</sup> day of FEB, 2021

6 DAVID A. HUBBERT  
7 Deputy Assistant Attorney General

  
JEFFREY MARTINEZ

8 /s/\_\_\_\_\_  
9 E. CARMEN RAMIREZ  
10 Trial Attorney, Tax Division  
11 U.S. Department of Justice  
12 P.O. Box 683  
13 Washington, D.C. 20044  
14 202-353-1857 (v)  
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16 E.Carmen.Ramirez@usdoj.gov  
17 western.taxcivil@usdoj.gov

Signed this Feb day of 2nd, 2021

  
DOLORES MARTINEZ

1 WHEREFORE, the United States, Jeffrey Martinez, and Dolores Martinez jointly request  
2 that the Court approve the stipulation attached at Exhibit 1, and, relatedly, determine that there is  
3 no just cause reason for delay and enter the proposed partial judgment at Exhibit 2.  
4

5 Signed this 5th day of February, 2021.

Signed this \_\_\_\_ day of \_\_\_\_, 2021

6 DAVID A. HUBBERT  
7 Deputy Assistant Attorney General

\_\_\_\_\_  
JEFFREY MARTINEZ

8 /s/ E. Carmen Ramirez  
9 E. CARMEN RAMIREZ  
10 Trial Attorney, Tax Division  
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Signed this \_\_\_\_ day of \_\_\_\_, 2021

\_\_\_\_\_  
DOLORES MARTINEZ

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17 **IT IS SO ORDERED.**

18 Dated this 12 day of February, 2021.

19  
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22 \_\_\_\_\_  
23 Gloria M. Navarro, District Judge  
24 UNITED STATES DISTRICT COURT  
25

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the foregoing is made February 5, 2021, via the Court's ECF system to all current parties who have appeared electronically. In an abundance of caution, the United States is sending this motion to the persons listed below, via U.S. Mail. Due to in-office staffing limitations related to the COVID-19 pandemic, the mailing may take two business days to send.

Jeffrey Martinez  
262 Cliff Valley Dr.  
Las Vegas, NV 89148

Dolores Martinez  
262 Cliff Valley Dr.  
Las Vegas, NV 89148

/s/ E. Carmen Ramirez  
E. CARMEN RAMIREZ  
Trial Attorney, Tax Division  
U.S. Department of Justice